

### **REMARKS**

Claims 1-8, 10-13, 18, 19, and 23-27 were previously cancelled. Claim 9 is currently amended. Support for the amendment can be found throughout the specification, specifically in the claims as originally filed. Claims 9, 14-17, and 20-22 are currently under consideration.

### **Summary of the Substance of the Interview**

Applicants wish to thank the Examiner for the courtesy of granting an interview on September 22, 2008. In this interview, Applicants' representatives Mr. Bernard Berman and Ms. Kellie Carden discussed with the Examiner the prior art documents Teng (U.S. Patent No. 6,410,208) and Mastrangelo et al. (U.S. Patent No. 6,136,212) originally cited in the Office Action dated February 19, 2008. Specifically, Applicants' representatives explained the differences between the two cited references and the present application.

### **Priority**

The Examiner has maintained the rejection of claim 9 with regard to the effective filing date. Office Action pages 2-3. Applicants continue to contend that the subject matter of claim 9 is adequately supported in Provisional Patent Application No. 60/418,930. However, solely in an attempt to further prosecution, claim 9 has been amended to delete the reference to 2-benzyl-2-dimethylamino-1-(4-morpholinophenyl)-butanone-1. Thus, the subject matter of the present application is supported by U.S. Provisional Patent Application No. 60/418,930 and should be accorded an effective filing date of October 16, 2002.

### **Rejections Under 35 U.S.C. §102**

#### **Teng**

Claim 9 is rejected under 35 U.S.C. §102(b) as being anticipated by Teng (U.S. Patent No. 6,410,208). Specifically, the Examiner asserts that such patent teaches (see Example 5) a thermo-deactivatable photosensitive layer comprising a thermo-deactivatable photopolymer formulation and a photoinitiator, namely 2-benzyl-2-N,N-dimethylamino-1-(4-morpholinophenyl)-1-butanone. Office Action pages 3-4.

Applicants respectfully assert that Teng does not anticipate the present claims.

However, solely in an effort to promote prosecution, claim 9 has been amended to delete the recitation of the compound 2-benzyl-2-N,N-dimethylamino-1-(4-morpholinophenyl)-1-butanone. For a rejection under 35 U.S.C. §102 to be properly made and sustained, the art cited in that rejection must disclose each and every element of the claim(s) called out in the rejection. MPEP §2131. Teng clearly does not disclose each element of newly amended claim 9. Withdrawal of the rejection is respectfully requested.

Kohl et al.

Claim 9 is rejected under 35 U.S.C. §102(e) as being anticipated by Kohl et al. (U.S. Patent Application Publication No. 2006/0263718; hereinafter "Kohl"). The Examiner states that the Kohl teaches a sacrificial polymer composition containing a sacrificial polymer and a negative tone initiator, thus anticipating claim 9. Office Action page 4.

Applicants respectfully traverse the rejection. As stated above, claim 9 has been amended to delete the recitation of the compound 2-benzyl-2-N,N-dimethylamino-1-(4-morpholinophenyl)-1-butanone. As such, the present application claims priority to U.S. Provisional Patent Application No. 60/418,930 and should be accorded an effective filing date of October 16, 2002. The Kohl application was filed on April 5, 2006 and claims priority to U.S. Provisional Application No. 60/423,821, filed November 1, 2002. Kohl is therefore not available as a reference under 35 U.S.C. §102(e) as the present application has an earlier effective filing date. Kohl does not anticipate Applicants' presently amended claims. Withdrawal of the rejection is respectfully requested.

Wu et al.

Claim 9 is rejected under 35 U.S.C. §102(a) as being unpatentable over Wu et al. (Journal of Applied Polymer Science 88:1186-1195 (2003); hereinafter "Wu"). The Examiner states that Wu teaches norbornene-based photosensitive sacrificial materials including bis(2,4,6-trimethylbenzoyl)-phenylphosphine epoxide and the photoinitiator 2-benzyl-2-N,N-dimethylamino-1-(4-morpholinophenyl)-1-butanone.

Applicants respectfully traverse the rejection. The Wu reference was published online on February 18, 2003. See page 1186, publication information located above Abstract. Wu is not available as a reference under 35 U.S.C. §102(a) as the present application has an earlier effective filing date. Wu therefore does not anticipate Applicants'

presently amended claims. Withdrawal of the rejection is respectfully requested.

Gallagher et al.

Claims 20-22 stand rejected under 35 U.S.C. §102(e) as being unpatentable over Gallagher et al. (U.S. Patent Application No. 2004/0137728; hereinafter "Gallagher"). The Examiner states that Gallagher teaches a method of forming an air gap in a device comprising all of the steps of the present invention.

Gallagher claims the benefit of U.S. Provisional Patent Application Nos. 60/414,857, September 13, 2002, and 60/442,162, filed January 23, 2003. Hence, the earliest effective filing date of Gallagher is September 13, 2002. The present application claims the benefit of U.S. Provisional Patent Application No. 60/418,930, filed October 16, 2002. Hence, the earliest effective filing date of the present application is October 16, 2002.

In the accompanying Declaration Under 37 C.F.R. §1.131, Dr. Paul A. Kohl declares that the inventors of the above-identified application conceived of the present invention prior to September 13, 2002, and from the date of conception until the Provisional filing date (constructive date) of October 16, 2002, the inventors proceeded diligently to seek patent protection on the overall invention. During this time, the inventors prepared and finalized the figures, disclosed the invention to patent counsel and reviewed the provisional patent application prepared by patent counsel, which provisional patent application was filed on October 16, 2002.

It is respectfully submitted that the foregoing remarks and the attached Declaration establish conception of the present invention prior to the earliest effective filing date of Gallagher on September 13, 2002. Accordingly, Gallagher is not available as prior art to the present invention. Withdrawal of the rejection is respectfully requested

Rejections Under 35 U.S.C. §103(a)

Claims 14-17 and 20 are rejected under 35 U.S.C. §103(a) as being obvious over Gallagher in view of Lee et al. (U.S. Patent No. 6,107,000; hereinafter "Lee"). The Examiner states that Gallagher teaches all of the elements of the current claims with the exception of the use of a grey scale photomask. The Examiner contends that this deficiency is satisfied by Lee. Office Action pages 5-6.

The method as set forth in Claim 14 includes, in pertinent part,

“...decomposing the photodefinable polymer composition, thermally, to form a three-dimensional air-region.”

As articulated above, Gallagher is not available as prior art as conception of the present invention occurred prior to the earliest effective filing date of Gallagher (September 13, 2002).

The method of Lee provides for fabricating a three-dimensional micro-optic lens on a substrate coated with a photoresist layer. Such layer is first exposed to an electron beam and subsequently etched by chemically assisted ion beam milling. Lee clearly DOES NOT teach or suggest the thermal decomposition of a sacrificial layer.

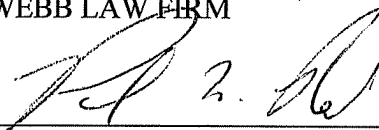
Therefore, Applicant respectfully asserts that since Gallagher is not prior art to the present application, and Lee, taken singly or in any combination thereof with any of the cited prior art, neither teaches or even suggests thermally decomposing a sacrificial layer, the instant claims are not obvious over the combination of Gallagher and Lee. Hence, withdrawal of this rejection and allowance of Claims 14-17 and 20 is respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that all of the pending claims in the present application are in condition for allowance as currently presented. Accordingly, withdrawal of the pending rejections and an early Notice of Allowance are respectfully requested.

Respectfully submitted,

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